

Application No. 10/065,225  
Docket No. 17MY-7241  
Amendment dated July 30, 2003  
Reply to Office Action of March 31, 2003

### REMARKS

In the Office Action, the Examiner reviewed claims 1-20 of the above-identified US Patent Application, with the result that claims 1-20 were rejected under 35 USC §103 in view of U.S. Patent No. 6,258,317 to Smith et al. (Smith), claims 1-10 were provisionally rejected under the judicially-created doctrine of obviousness-type double patenting in view of claims 1-10 of co-pending U.S. Patent Application Serial No. 10/065,217 to Beck et al. (Beck), and claims 1-10 were further rejected as not being patentably distinct from claims 1-10 of Beck. In response, Applicants have amended the claims as set forth above. More particularly:

Independent claims 1, 11 and 16 have been amended use the transitional phrase "consisting of" instead of "consisting essentially of."

Dependent claims 14 and 19 have been amended to omit the word "essentially" in reference to the alloy composition.

Dependent claim 18 has been amended to recite that the alloy is in the form of a nozzle installed in a second turbine stage, and not a third turbine stage, of a gas turbine engine. This amendment addresses a clerical error evident from paragraph [0021] and Table V of Applicants' specification.

Applicants believe that the above amendments do not present new matter. Favorable reconsideration and allowance of claims 1-20 are respectfully requested in view of the above amendments and the following remarks.

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### **Rejection under 35 USC §103**

Under the §103 rejection, the Examiner explained that Smith discloses a similar nickel-base alloy containing the same elements in amounts that overlap those recited in Applicants' claims. However, Smith requires molybdenum in an amount of at least 2.4 weight percent, which is now excluded by Applicants' use of the transitional phrase "consisting of." Therefore, Applicants respectfully request withdrawal of the §103 rejection of claims 1-20 in view of Smith.

### **Rejections Based on the Co-pending Beck Application**

These rejections were on the basis that Beck and claims 1-10 of Beck disclose an alloy whose elements, with the exception of titanium, overlap those recited in claims 1-10. Applicants hereby acknowledge that the present application and Beck are commonly assigned.

Applicants request that the double patenting rejection be held in abeyance until allowable subject matter has been indicated by the Examiner. If appropriate under the circumstances existing at that time, a terminal disclaimer pursuant to 37 CFR §1.321(b) will be submitted which terminally disclaims that portion of the patent issuing from the present patent application which extends beyond the termination date of Beck.

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Regarding the second rejection based on Beck, the Examiner required the assignee (General Electric Company) to either "show that the conflicting inventions were commonly owned at the time the invention in this application was made or to name the prior inventor of the conflicting subject matter." In response, the undersigned hereby affirms that, at the time of the conception of both inventions at issue, the inventors identified in both patent applications were employed by the General Electric Company and contractually bound by their employment agreement to assign their patent applications to the General Electric Company, as evidenced by the recorded Assignments to General Electric Company for both patent applications. The Assignment for the present U.S. Patent Application Serial No. 10/065,225 is recorded at Reel No. 013451 and Frame 0302. The Assignment for co-pending U.S. Patent Application Serial No. 10/065,217 is recorded at Reel No. 013457 and Frame 0865.

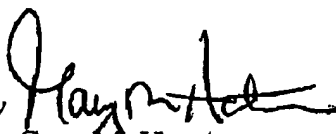
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Closing

In view of the above, Applicants believe that all issues outstanding from the Office Action have been addressed. It is therefore respectfully requested that this patent application be given favorable reconsideration.

Should the Examiner have any questions with respect to any matter now of record, Applicants' representative may be reached at (219) 462-4999.

Respectfully submitted,

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